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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,601	05/04/2006	Bernard Piere Dominique Carcy	I-2003.005 US	8856
31846	7590	11/16/2007		
INTERVET INC. PATENT DEPARTMENT PO BOX 318 MILLSBORO, DE 19966-0318			EXAMINER ARCHIE, NINA	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,601	Applicant(s) CARCY ET AL.	
	Examiner Nina A. Archie	Art Unit 1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

1. Group I: claims 1, 2, 4-5, 7-15, and 19-21 drawn to an isolated amino acid sequence comprising an amino acid sequence (SEQ ID NO:2), a nucleic acid that encodes the sequence (SEQ ID NO: 1), a cDNA fragment, a recombinant DNA molecule , a live recombinant carrier, a host cell, a vaccine, a diagnostic test for the detection of a nucleic acid (SEQ ID NO:1), a diagnostic test for the detection of antibodies, a diagnostic test for the detection of antigenic material.
2. Group II: claims 1, 3-4, 6, 7-15, and 19-21 drawn to an isolated amino acid sequence comprising an amino acid sequence (SEQ ID NO: 4), a nucleic acid that encodes the sequence (SEQ ID NO: 3), a cDNA fragment, a recombinant DNA molecule , a live recombinant carrier, a host cell, a vaccine, a diagnostic test for the detection of a nucleic acid (SEQ ID NO:3), a diagnostic test for the detection of antibodies, a diagnostic test for the detection of antigenic material.
3. Group III: claim 16 drawn to a method for the preparation of a vaccine comprising the admixing of the sequence.
4. Group IV: claim 17 drawn to a method for the preparation of vaccine comprising the admixing of an antibody against the sequence.
5. Group V: claim 18 drawn to a method of prophylaxis or treatment.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature of Group I is an isolated amino acid sequence comprising an amino acid sequence (SEQ ID NO:2). Groups II-V lack a special technical feature because of the following reasons: the claims in Group II are drawn to the second technical feature, drawn to an isolated amino acid sequence comprising an amino acid sequence (SEQ ID NO: 4). The nucleic acids as claimed lacks structure and there is nothing to distinguish the instantly claimed nucleic acid from the nucleic acid of Group I. Group III are drawn to the first method of use of the first and second technical feature. Group IV are drawn to the second method of use of the first and second technical feature. Group V are drawn to the third method of use of the first and second technical feature.

Group II-V lacks unity with Group I because they do not have the same technical feature for Group II-V (as set forth supra). Therefore an assessment cannot be made whether there is a technical feature common to all groups that is "special" within the meaning of PCT Rule 13.2 and that makes for a contribution that the claimed invention makes over the prior art.

Nucleotide Sequence Election Requirement to Groups III, IV, and V

In addition, Groups III, IV, and V, detailed above, read on patentably distinct sequences. Each amino acid sequence is patentably distinct because they are structurally different and a further restriction is applied to each Group.

Applicant must further elect:

For Groups III, IV, and V, choose the combination amino acid and the nucleic acid encoding the sequence from SEQ ID NOs. 1-4 (for ex. SEQ ID NO: 2 and the nucleic acid encoding the sequence SEQ ID NO: 1).

Applicant is advised that examination will be restricted to only the elected nucleotide sequence and should not be construed as a species election.

Election of Species

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. If the Applicant elects Group I or Group II, the Applicant is required to elect a single individual species from Group I listed below.

Species-Organism;

- 1) Ehrlichia canis
- 2) Babesia Gibson
- 3) B. vogeli
- 4) B. rossi
- 5) Leishmania donovani-complex
- 6) Canine parvovirus
- 7) Canine distempervirus
- 8) Leptospira interrogans serovar canicola,
- 9) Leptospira interrogans serovar icterohaemorrhagiae
- 10) Leptospira interrogans serovar Pomona
- 11) Leptospira interrogans serovar grippotyphosa
- 12) Leptospira interrogans serovar Bratislava
- 13) Canine hepatitisvirus
- 14) Canine parainfluenzavirus
- 15) Rabies virus
- 16) Hepatozoon canis
- 17) Borrelia burgdorferi.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nina Archie whose telephone number is 571-272-9938. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Bruce Campell can be reached on 571-272-0794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1645

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nina Archie

Patent Examiner

Art unit, 1645

Remsen 3B31



MARK NAVARRO
PRIMARY EXAMINER